TASK FORCE
ON
MARYLAND PREPAID TUITION SAVINGS PROGRAM

Edwin S. Crawford, Chairman
December 1996

TASK FORCE
MARYLAND PREPAID TUITION SAVINGS PROGRAM
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Executive Summary

Maryland's economic future depends upon the quality of its citizens who successfully complete higher education. Technology and the increasingly global nature of the world economy demand that the labor force demonstrate the capacity to learn and re-learn complex job skills. The core education for the work force of the 21st century must be gained through higher education which teaches critical thinking and problem solving skills. A 1994 report by the Southern Regional Education Board's Commission for Education Quality indicates the role of higher education institutions in the economy:

1. An individual's lifetime rate of return on an investment in an undergraduate degree is between 12 to 13 percent per year.

2. Higher education accounts for about five percent of the annual growth in national income.

3. Another 20 to 40 percent of the national income growth comes from improvement in knowledge and its application. Higher education can claim a large share.

Given the importance of an undergraduate education, escalating tuition costs at higher education institutions have created anxiety about college affordability. In Maryland, for example, tuition and fees increased on average by 8.3 percent annually between fiscal year 1986 and fiscal year 1996. Over this period, median family income increased by approximately 4 percent per annum. Consequently, students and parents have had to rely more on loans and personal savings, rather than financial aid, to fund higher college costs. There is growing concern that the debt expenses associated with these loans place a current and future financial burden on students and parents. The growing debt burden will increasingly deny Maryland residents access to higher education.

The rising cost of public higher education has led various states to adopt strategies to keep college affordable to their residents. As part of its higher education strategy, the State of Maryland created a Task Force to study the value of a Maryland prepaid tuition savings program. To carry out its mandate, the Task Force reviewed literature on current programs, consulted with program administrators in Florida, Ohio, and Massachusetts, obtained advice from legal and tax experts, and reviewed historical information on the rate of growth in tuition rates at Maryland higher education institutions, as well as other relevant higher education statistics. Of particular mention is the August 1996 federal legislation, The Small Business Job Protection Act of 1996, which grants federal tax advantages to states that create qualified state tuition programs.

The Task Force recommends the creation of a Maryland prepaid tuition program to provide tax deferred benefits to participating Maryland families. This program would provide significant incentives to the savers and generate a financial advantage for future college affordability. The recent change in federal law now gives Maryland a means to provide families with a tax advantage to encourage saving for college expenses. Since American households generally have one of the lowest savings rates among the advanced nations, encouraging more families to plan in advance for future college costs may decrease the number of families who must rely on borrowing to pay for their children's' education.

A publication by Thomas G. Mortenson, *Refinancing Opportunity for Postsecondary Education in Maryland,* furnishes the following information for 1994 on the average annual and lifetime income by educational attainment.

MEAN ANNUAL INCOME		
Educational Level	Males 25 Years and Over	Females 25 Years and Over
Professional	$99,323	$47,666
Doctorate	$76,844	$45,369
Master's	$56,016	$34,149
Bachelor's	$46,197	$25,579
Associate	$32,713	$20,486
Some College	$30,799	$17,173
High School Graduate	$25,501	$13,844
Not High School Graduate	$15,622	$8,775

LIFETIME INCOME		
Educational Level	Males 25 Years and Over	Females 25 Years and Over
Professional	$3,681,000	$1,796,000
Doctorate	$2,607,000	$1,409,000
Master's	$2,045,000	$1,197,000
Bachelor's	$1,930,000	$1,069,000
Associate	$1,439,000	$901,000
Some College	$1,417,000	$790,000
High School Graduate	$1,224,000	$665,000
Not High School Graduate	$805,000	$453,000

The expected earnings disparity between a person with a college degree and a person with only a high school education is expected to increase in the future and State leaders must acknowledge that higher education is the most critical social investment for the 21st century.

A Maryland prepaid tuition program is based upon individual behavior not a direct government payment. It will create a major source of funds for families to meet college tuition at the undergraduate level. Marketing of the program is crucial to its success. The program is one new part of a means to build a funding source for college. It will complement private sector programs that attract high income savers who can afford market risks for greater financial reward.

The Trust Fund [illegible] Maryland Prepaid Tuition [illegible] program [illegible] result [illegible] college expenses. Since Americans historically have one of the lowest savings rates among the advanced nations, encouraging more families to plan in advance for future college costs may decrease the number of families who must rely on borrowing to pay for their children's education.

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Professional	$99,323	$47,666
Doctorate	$76,844	$45,309
Master's	$56,018	$34,149
Bachelor's	$46,197	$25,520
Associate	$32,713	$26,486
Some College	$30,599	$17,152
High School Graduate	$25,301	$13,844
Not High School Graduate	$15,624	$8,775

LIFETIME INCOME		
Educational Level	Males 25 Years and Over	Females 25 Years and Over
Professional	$3,681,000	$1,796,000
Doctorate	$2,887,000	$1,409,000
Master's	$2,045,000	$1,197,000
Bachelor's	$1,939,000	$1,069,000
Associate	$1,439,000	$901,000
Some College	$1,417,000	$750,000
High School Graduate	$1,228,000	$665,000
Not High School Graduate	$805,000	$455,000

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Introduction

Charge of the Task Force

During its 1996 session, the Maryland legislature passed Senate Bill 8 which established a 12 member Task Force to study the issue of prepaid tuition programs. The Task Force was charged with: establishing a program for implementing a Maryland Prepaid Tuition Savings Program, which would allow for the advance payment of undergraduate tuition at higher education institutions in the State; considering the membership of the board that will oversee the program and establish the duties of that board; determining the staffing and funding needs of the program; consulting with other states that have prepaid tuition savings programs; and receiving other testimony that the Task Force considers appropriate.

The Task Force was required to hold at least two public hearings on the Maryland Prepaid Tuition Program. In addition, the Task Force was asked to study a variety of issues related to the Maryland Prepaid Tuition Program, including:

- whether the program should offer a guarantee
- whether the program should be self-supporting and off-budget
- what the structure of the program should be
- what the tax status of fees paid pursuant to an advanced payment contract and the application of federal security laws to a special trust fund established for prepaid tuition payments would be

The Task Force was required to report to the Governor, the Senate Budget and Taxation Committee, the Senate Economic and Environmental Affairs Committee, the House Appropriations Committee and the House Ways and Means Committee of the General Assembly on or before December 1, 1996. This final report should include proposed legislation to be introduced at the 1997 Session of the General Assembly.

In addition to a series of working sessions, the Task Force held two public hearings to receive public comment (see appendix for meeting schedule). These hearings were held at the University of Maryland Baltimore County and Montgomery College. Conference calls were arranged with the executives of prepaid programs in Florida, Massachusetts, and Ohio to allow the Task Force members the opportunity to discuss the operations of the programs in other states. The Task Force also heard testimony from legal experts in the field of federal tax law and securities, and the accounting field on the pricing of prepaid tuition contracts.

Overview of Prepaid Tuition Programs

Prepaid tuition plans have received much federal and state attention in the last decade as increases in college costs have exceeded both the growth in median family income and the Consumer Price Index (CPI). From 1987 to 1997, the cost of attending Maryland public four-year colleges grew by 124 percent, while the CPI rose by 56 percent and Maryland per capita income increased by 36 percent.

Several states have addressed the issue of college affordability by creating various college tuition saving programs while others, including Maryland, have studied the issue over the last decade. Only one state, Wyoming, instituted a program which it later closed due to a lack of participation. According to an April 1996 survey by the National Association of State Treasurers, at least 26 states have authorized such savings programs. Of these states, 12 have implemented prepaid programs, with Virginia being the first after the new federal legislation to recognize the critical need of this type of program as part of the long-term economic development tools required to enhance the potential for intellectual capital.

Prepaid tuition and state sponsored college savings programs offer participants the opportunity to pay in advance for educational benefits that a designated beneficiary is expected to use in the future at the participating institutions, usually in-state, public colleges. The states with a program have no one dominant model. State prepaid tuition plans, until the 1996 federal legislation, which clarified the earnings taxation issue, have been crafted to "beat" the IRS policy view that earnings on the assets of most state plans were taxable.

Payments from participants are pooled into a common fund and invested to achieve a rate of return that is higher than the rate of tuition increases expected at participating colleges. States that have implemented investment programs include: Alabama, Alaska, Florida, Massachusetts, Michigan, Mississippi, Ohio, Pennsylvania, Texas, Virginia, Wisconsin, and Wyoming. Many of the states chose a prepaid tuition program based on a tax exempt college bond program with a state-funded interest subsidy and arrangements with participating institutions. States have made policy choices based on the degree each is willing to (1) accept a taxpayer subsidy (e.g., Massachusetts); (2) accept investment market risk; and (3) use a full faith and credit guarantee (e.g., Ohio).

Attempts to establish a prepaid tuition program in Maryland have been undertaken since 1987. In its report issued November, 1987, the Governor's Task Force to Study Alternative College Financing Methods stated that:

> *". . . the Task Force concluded that it could not support a program with a "full faith and credit" tuition guarantee because the level of State general fund subsidy is unknown and indeterminable in advance. In addition, the institutions stated that they were unable to assume the risks inherent in a tuition guarantee because as with the State the risk is unknown and indeterminable. In addition, all of the resources of the institutions are committed."*

During the 1994 legislative session, HB 100 sought to "establish the Prepaid Higher Education Expense Program for the purpose of assisting families in planning for post secondary education." The bill would have allowed participants to "purchase an advance payment contract in order to prepay the cost of registration and dormitory residence at an eligible institution on behalf of a designated beneficiary." In 1995, similar legislation (HB 312) was considered. These Maryland legislative efforts which were focused on Florida's program have raised concerns because of (1) the State's open-ended exposure if investment returns are less than anticipated, (2) the tuition rates are set by the governing boards of the institutions unlike Florida where public tuition rates are set by the legislature, and (3) the uncertainty about the effect of federal tax laws on the proposed program.

The federal government clarified the taxation of program earnings issue in August 1996. The Task Force believes the State's liability can be eliminated through actuarially sound program management and a transfer of funding risk to the program participants.

Recent Federal Legislation to Guide New State Legislation

In August, President Clinton signed the Small Business Job Protection Act of 1996 (HR 3448) which resolved the uncertainty as to the tax status of the earnings on the assets of a state sponsored prepaid tuition program. The legislation provides specific statutory tax rules for qualified state tuition programs, creates a tax exemption for state filed programs until funds are paid to the beneficiary, and provides rules for taxation of contributors and beneficiaries under the program.

Under the new law, a qualified state tuition program is defined as a program established and maintained by a state or agency or instrumentality thereof under which a person:

1. May purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to payment of qualified higher education expenses, or

2. May make contributions to an account which is established for the purpose of meeting qualified higher education expenses of a designated beneficiary.

A qualified state tuition program must be established and maintained by a state (or by a state agency or instrumentality). Under the new federal regulations, funds in the program may be used for costs of in-state and out-of-state private and public colleges as well as qualified vocational schools. The cost of tuition, fees, books, supplies, and equipment required for enrollment or attendance at an eligible institution may be covered. However, the new regulations do not allow the cost of room and board to be covered by a state sponsored prepaid tuition program.

The new legislation allows taxes on contributions to be deferred until the beneficiary redeems a contract. Furthermore, the earnings will be taxed at the beneficiary's lower tax rate. The contributor does not get any current period federal income tax deduction for making contributions to a qualified program. If a contributor dies while funds remain in the beneficiary's account, the funds will be included in the contributor's gross estate for purposes of the federal estate tax.

Contributions to a program and payments from a program are not subject to federal gift tax provided the payments are used for qualified higher education expenses. A tax-free transfer of a beneficiary's account to another beneficiary is permitted but only to a family member of the original beneficiary.

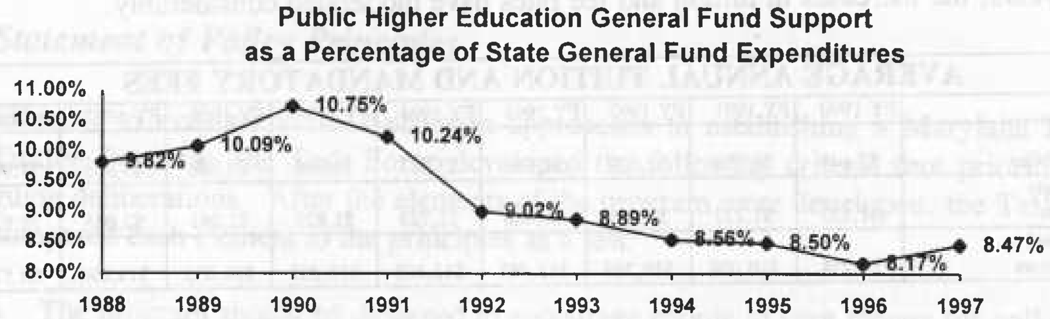
Limits are imposed on the ability of a program to permit refunds. If the designated beneficiary dies or becomes disabled, the program can refund his or her account to the contributor, without penalty. A refund to the contributor without penalty is also allowed if the beneficiary gets a scholarship. Ideally, the scholarship money could be used for costs not covered by the program. For cases where the beneficiary does not attend college, a refund is allowed but a penalty that is "more than de minimis" must be charged. There is no special rule for family hardship; however, a penalty would have to be charged. Refunds would create taxable income to the contributor to the extent the refunded amount exceeds the amount of the contribution. Federal regulations to provide the states with guidelines have not been drafted as of the completion of the Task Force report. Several states included dormitory and auxiliary fees as part of their program which must now be curtailed or transferred to a separate state program either without the federal tax advantage or built upon tax-free bonds.

Conditions Keeping Higher Education Affordable Have Changed

The State's economy has undergone significant changes over the last decade which has materially reduced the absolute and inflation measured funds available for public higher education. Maryland's families have not increased their real personal income to keep pace with tuition increases. Individual grant and scholarship awards from the federal government and the State government, and from higher education institutions have been reduced. Unless the federal or State government commits to major increases in aid to higher education, the burden of financing will fall more heavily on even more limited family assets, accordingly families must be provided with an incentive to save in order to afford the future costs of education.

Analysis of State Support for Higher Education

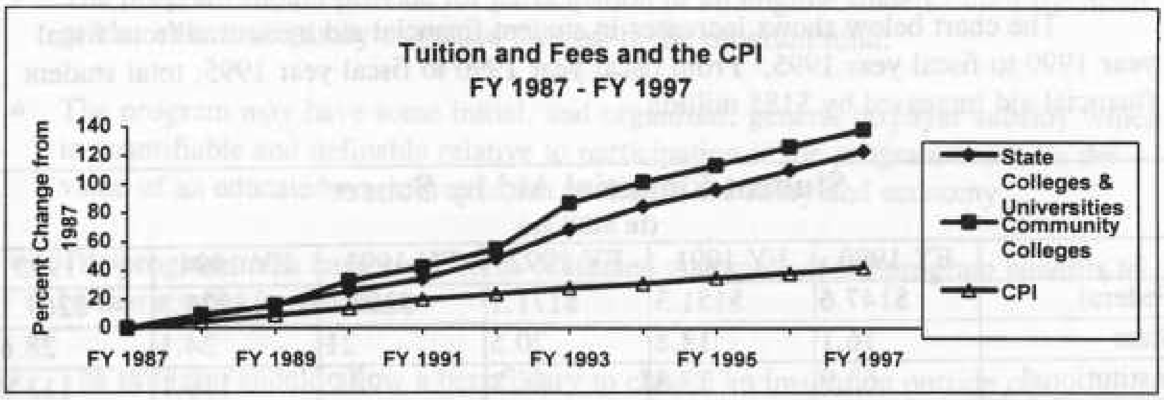
An economic recession during the early 1990s caused state support to decline from $650 million in fiscal year 1990 to $561.8 million in fiscal year 1992, a drop of over $98 million. The State's economic recovery from the recession has been very slow. In fiscal year 1997, state support is still $24 million below the fiscal year 1990 level of $650 million. As this amount does not include the effect of inflation in the value of each dollar, the real gap in funding is likely to be over $50 million. Not only have state revenues been depressed, but health care and prison construction, in particular, have competed with higher education for finite public dollars.



The chart above shows general fund support as a percentage of total state general fund expenditures. General fund support as a percentage of total state general fund expenditures has decreased from a high of 10.75 percent in fiscal year 1990 to 8.47 percent in fiscal year 1997.

Analysis of Tuition Increases in Maryland - Public and Private

Average tuition and fee rates at the Maryland public colleges and universities have increased by 124 percent from fiscal year 1987 to fiscal year 1997. The most dramatic increases were seen in fiscal year 1992 and fiscal year 1993 as a result of the decline in State funding during the two previous fiscal years. At Maryland community colleges, average tuition and fee rates increased by 140 percent from fiscal year 1987 to fiscal year 1997. At the Maryland state-aided private institutions, average tuition and fee rates increased by 89 percent over the same period of time. The rate of increase in tuition and fees has far outpaced the inflationary indexes.



In fiscal year 1990, the average annual tuition and fee rate at the four-year public institutions was $2,149, while at Maryland community colleges, the average rate was $1,153. In fiscal year 1997, the average annual rate at the four-year public institutions has increased to $3,825. At the community colleges, in fiscal 1997, the average annual rate is $2,063. The most dramatic increases were seen in the early 1990's in response to the decline in State funding due to the recession. Over the past five years, the increases in tuition and fee rates have moderated considerably.

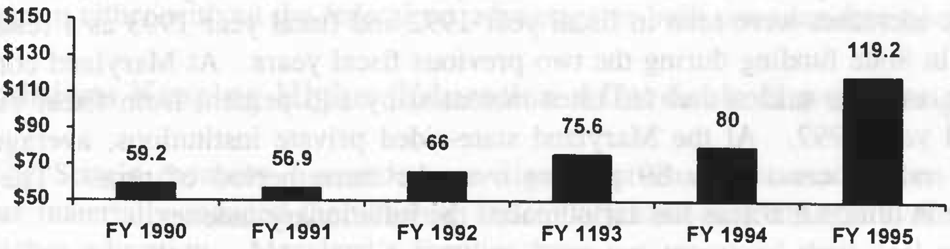
AVERAGE ANNUAL TUITION AND MANDATORY FEES

	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	% Change
4-Yr. Publics	$2,149	$2,296	$2,539	$2,880	$3,517	$3,356	$3,588	$3,825	77.99%
Community Colleges	$1,153	$1,233	$1,335	$1,600	$1,723	$1,829	$2,041	$2,063	78.92%
State-Aided Independents	$9,278	$10,036	$10,769	$11,468	$12,368	$13,233	$14,085	$14,898	60.57%

Analysis of Student Aid in Maryland

Grant aid in Maryland has not increased at the rate of growth in tuition rates. As a result, more and more students and parents are relying on federal loans to finance a college education. The chart below shows the growth in guaranteed federal student loans for students attending Maryland institutions.

Growth in Guaranteed Federal Student Loans in Maryland (In Millions)



The chart below shows increases in student financial aid by source from fiscal year 1990 to fiscal year 1995. From fiscal year 1990 to fiscal year 1995, total student financial aid increased by $185 million.

Student Financial Aid by Source
(In Millions)

	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
Federal	$147.6	$151.3	$171.1	$202.4	$223.3	$267.1
State	16.1	18.8	20.5	21	24.1	28.6
Institutional	65.9	73.8	86.1	98.2	110.1	113.9
Private	9.9	11.1	16.4	13.7	14.7	14.8
Total	$239.5	$255.0	$294.0	$335.3	$372.2	$424.4

Evaluation Criteria for Maryland Program

Given the goal to produce a Maryland tuition savings program built upon the consumer, rather than the taxpayer, the Task Force established a set of principles to formulate a Maryland Prepaid Tuition Program.

Statement of Policy Principles

In order to evaluate various program approaches to establishing a Maryland Prepaid Tuition Program, the Task Force developed the following criteria (not prioritized) to guide deliberations. After the elements of the program were developed, the Task Force compared each element to the principles as a test.

- The program should be designed to encourage people to save money for college.
- The program should encourage enrollment in Maryland institutions.
- The program should not diminish existing financial aid programs and private sector savings.
- The program should include quantitative economic benefits to the participants and be favorable to market needs of families that are not eligible for federal aid programs.
- The program should provide coverage for all "eligible costs of attendance" consistent with federal guidelines.
- The program benefit should be applicable to all institutions of higher education in Maryland.
- The program should provide for participation of all eligible students until the ninth grade; a limit necessary to reduce the cost to the program fund.
- The program may have some initial, and organized, general taxpayer subsidy which is quantifiable and definable relative to participation in the program based on the value of an educated workforce to the quality of the Maryland economy.
- The program must have some form of limited guarantee of the program benefits to be marketable for success.
- The program should allow a beneficiary to choose an institution outside of Maryland (but with discounted benefits).

- The program should have an annual limited open enrollment period.
- The program should be applicable to all full and part-time undergraduate students.
- A beneficiary must be a resident of Maryland at the time of enrollment into the program.
- The program should have minimal administrative costs and be self-supporting.
- The program participants should bear the risk for periodic contribution or contract value adjustments should the growth in program assets generated lag the growth of tuition costs.
- For future revenue value created by the program, the legislation should carefully monitor the growth in program assets and tuition rates to gauge the adequacy of contract pricing models.

The Proposed Maryland Program

The Task Force adopted the goal of a basic or "bare bones" program which could be refined over time as the State decides to increase investment in higher education. It is the recommendation of the Task Force that the legislation give the program's management board authority to modify the entire program.

Target Market

The Maryland program should encourage savings for college by families who would not otherwise save. The program should provide an incentive for families to save and reduce the reliance on debt as a method of financing a college education. The Task Force believes upper income families who can accept greater investment risks will continue the use of non-tax shelters along with other investments such as tax-exempt bonds. The Maryland program will complement private sector products and target a large market segment not served.

Organizational Structure

The Task Force feels strongly that the program should be administered within a new state board as an off-budget organization but subject to audit. The establishment of a program should not result in the creation of a new state agency that requires a long term subsidy from the general fund. While some "seed money" should be provided by the State, the program should be self-supporting with no state funds appropriated for on-going administration after the start-up phase. Administrative costs and staffing can be kept to a minimum. Successful programs in Florida and Michigan illustrate that a staff of less than 12 full-time employees is needed, and the accounting, marketing and reporting work can be privatized.

The Task Force does not believe that any agency has sufficient staff and expertise to administer the program at this time. The staff chosen to administer the program must have the skills and expertise to ensure that the program is successful.

Legislation establishing the Maryland prepaid tuition program should create a seven-member board appointed by the Governor consisting of the Treasurer, the Secretary of Higher Education, and other higher education and financial experts. The legislation should also direct that an executive director be hired. The executive director should be charged with developing policies and procedures and determining marketing and staffing needs. The Task Force recommends that whenever appropriate careful consideration should be given to the use of contract services for functions such as administration, auditing, marketing, investment management, data support, actuarial services, lock box operations, and customer/account services.

Guarantee

Of the states that offer prepaid programs, the programs in Florida, Ohio, Massachusetts, and Mississippi are backed by the full faith and credit of the state. Texas intends to seek legislation in 1997 for the full backing of the state. The Task Force was very aware that a full faith and credit guarantee by the State of Maryland would require a constitutional amendment. After a great deal of discussion, the Task Force recommends that the advanced payment contract should be between the program and the contributor and any guarantee of payment should be provided by the program and payable solely from the assets of the program and should not be provided or payable by the State. The special fund containing the assets of the program would be actuarially managed with authority in the program's board to periodically adjust the contract payment to ensure financial soundness. This guarantee would be backed by the assets of the program not the full faith and credit of the State. The Task Force recommends that the legislation creating the program include language that no act or undertaking of the program, including the advanced payment contract shall be deemed to constitute a debt of the State of Maryland or a pledge of the full faith and credit of the state, but shall be payable solely from the assets of the program in the special fund.

Program Structure

The Task Force considered two basic product approaches for structuring contracts: tuition units and advanced payment contracts. Several states successfully use variations of each approach.

Tuition Units - Ohio

Ohio issues tuition units which represent one percent of the average tuition currently charged at the public four-year institutions. Units are redeemed in the future for one percent of the then current average tuition being charged at the public four-year institutions. The cost of one year of tuition at an average-priced public four-year institution is covered by roughly 100 tuition units, or 400 units for four years of college. Community colleges require approximately 57 units per year, and private institutions average 339 per year. The value of each tuition unit will equal one percent of the weighted average tuition rate in effect at the 13, four-year Ohio public universities the year the beneficiary is college age.

Advanced Payment Contract - Florida

In Florida, a contributor of an advanced payment contract agrees to buy a predetermined amount and type of tuition benefit. For example, Florida's program offers prepaid tuition contracts for two years at a community college, two years at a community college plus two years at a state university, or four years at a state university. Community college benefits consist of 64 credit hours. University benefits consist of 120 credit hours. The price of the contract varies based on the age of the beneficiary, with prices highest for those children closest to college and lowest for newborns. The contract provides either two years at a community college, two years at a community college plus two years at a university, or four years at a university.

To make Maryland's program successful, the Task Force recommends that the program be built on a tuition coverage model; not just a savings vehicle. The Task Force believes families prefer the relative certainty of tuition coverage rather than the maximization of investment earnings. It is the recommendation of the Task Force that the contract for the Maryland prepaid tuition program be structured as advanced payment contracts.

Eligibility Requirements

A beneficiary must be a resident of Maryland and should not have completed ninth grade at the time of enrollment in the program. The Task Force recommends contract enrollment be limited to children from birth to the ninth-grade because of the actuarial impact on the portfolio of program assets as reported by each of the state programs examined and the comments by the representatives from Deloitte & Touche LLP. If the beneficiary is not residing in Maryland at the time the benefits of the contract are used, the beneficiary is responsible for any additional out-of-state tuition and fee charges by a Maryland public higher education institution.

Program Flexibility

Maryland public institutions, both two-year and four-year, should be included in the tuition program. The program should encourage through incentives enrollment in Maryland institutions. If a beneficiary chooses to attend an in-state private institution, an amount equal to the weighted (by enrollment) average tuition at the Maryland four-year public institutions should be paid on behalf of the beneficiary. If a beneficiary chooses to attend an out-of-state college, an amount less that the weighted average tuition at the Maryland four-year public institutions (or the community colleges) should be paid on behalf of the beneficiary.

The proposed Maryland advanced payment tuition contract should cover both tuition and mandatory fees. Non-mandatory fees should be excluded. Benefits should be purchased in increments of one academic year. A contributor should have the ability to convert a two-year contract to a four-year contract, or a four-year contract to a two-year or two plus two contract. A contract should be held for a minimum three years. Benefits should be used within 10 years of the beneficiary's anticipated matriculation date or the loss of earnings should be applied.

A contributor should be allowed to transfer benefits from one family member to another in accordance with federal regulations.

The program should allow flexible payment plans, including both lump sum and installment payment plans and permit payments made through a payroll deduction option, and an automatic bank deduction option.

Contract Pricing

The price of a new advanced payment contract should vary annually and be based on the age of the beneficiary, the contract of choice, e.g., community college, four-year public, or a two plus two contract, and the weighted (by enrollment) average cost of tuition at Maryland's public higher education institutions. Since costs at private institutions are generally greater than at public institutions, the difference in costs will have to be made up by the beneficiary or contributor from separate funds. The actual price of the contracts would be set annually before the limited enrollment period by an actuary who takes into account other factors such as anticipated rate of return on investments, projected tuition and fee growth, enrollment demographics, number of participants in the program, redemptions, withdrawals, administrative expenses, etc. The contracts would permit the board, if necessary, to adjust the outstanding contracts to ensure actuarial soundness of the program. To manage the assets and liabilities of the program, the Task Force recommends that the program provide an annual report to the Governor, the General Assembly, and the public institutional governing boards on the status of the program and that each fairly consider their appropriation and tuition policy to ensure the contract coverage.

To help the Task Force members have a general idea of what the contract prices might be for a Maryland program, Deloitte & Touche LLP developed an estimate of contract prices based on Florida's 1997 contract prices adjusted for the difference in the weighted average tuition between Maryland and Florida. Their report has been included in the appendix. These prices are based on only one of many possible approaches and are to be used for illustration purposes only.

Enrollment Process

The program should have a limited annual enrollment period which should be determined by the board. The board should have the authority to adjust and modify the enrollment period.

Redemption Benefits

In the event the beneficiary dies, suffers from a disability which prevents the beneficiary from attending college within the time frame allowed, or receives a scholarship covering the same benefits provided by the contract, the contributor should be entitled to a refund equaling the same benefits as provided by the contract less administrative charges, and in compliance with federal regulations.

If the beneficiary does not attend college or the contributor terminates a contract, the contributor may receive a discounted refund of the contributions made to the program by the contributor, less administrative charges. Interest or gains on the contributions made would not be paid in full.

Investment of Program Funds

The board should develop investment policies and guidelines for the program. A special fund should be established for the funds of the program. The program should be exempt from section 6-222 of the State Finance and Procurement regulations to allow it to invest in a broader array of investments rather than only short-term securities. Investment of the funds should be made in accordance with the policies and guidelines developed by the board and should be consistent with the Maryland Statutory Standards for Government Funds as well as those established for pension-type funds.

Administrative fees paid by contributors should be deposited into an administrative fund, separate from contract payments, and used to cover the administrative costs of the program.

Annual Report

The program's executive director should be required to submit an annual report to the Governor and General Assembly on the status of the program. The report should include an accounting of the assets of the program and a description of the financial condition of the program. Also, the program should be reflected in the State's consolidated financial statement including a note concerning the issue of potential liability associated with any guarantee.

Benefits and Risks to the State

The Task Force believes that a prepaid tuition program would offer tangible savings benefits to Maryland residents through deferred taxes, and a contract guarantee by the program, payable from the assets of the program. A prepaid tuition program built upon individual thrift would provide a major investment vehicle through which families could fund a significant portion of future education related costs. The creation of a prepaid program would provide an incentive for families to begin saving for college expenses at an early stage of a child's life. In Florida, for example, a survey of contract holders revealed that almost two-thirds had no specific savings programs for college before they joined the program. By taking advantage of the new federal law to fund future education costs in advance, families would be able to significantly reduce the need to finance college costs through borrowing and savings needed for retirement. A state program would enhance the affordability of higher education to state residents and help ensure Maryland's future labor force will have the necessary skills to compete in the information-based economy of the 21st century. Additionally, a state program may increase enrollment in Maryland institutions. Both policy outcomes are very positive for Maryland's future economy.

The long-term success of a prepaid tuition program requires that investment returns be greater than the tuition inflation rate. Unlike states such as Florida in which tuition rates are set by the legislature, the governing boards of Maryland's higher education institutions determine tuition policies. The Task Force recommends that the prepaid tuition program board as part of its annual report to state officials and members of the higher education community report on the effect of tuition actions on the obligations of the program. The Task Force does not recommend any change to restrict the flexibility of governing boards to set tuition rates or to place a financial burden on an institution.

The potential financial risks of the program, can be minimized through actuarially sound pricing, a prudent investment strategy, contract price adjustments, sound program management, and a moral commitment of the public institutions to monitor their tuition practices relative to the growth of the program contract benefits.

Implementation Strategy

The authorizing legislation should create a new division within the Executive Department and include funding for personnel as well as for equipment and supplies during the start-up phase. An experienced executive director should be hired as quickly as possible to begin implementing the program. The executive director of the program would be responsible for hiring the appropriate staff, developing an administrative and marketing program and other aspects of the program. The target date to begin offering contracts should be January 31, 1998 if legislative approval is obtained.

The Task Force encourages an aggressive marketing plan to create awareness of the program as well as to educate the public regarding the need to begin saving early for the cost of a college education.

Issues for Further Study

The new federal law pertaining to prepaid tuition programs does not allow dormitory contracts to be included in a qualified state tuition program. Since room and board accounts for a substantial portion of college costs, some states have indicated the desire to modify the new law through congressional action. The Task Force believes that the legislation creating a Maryland program should give the State the flexibility to include a dormitory option if the federal law changes. Given the high cost of room and board, the Task Force recommends to the Governor that he commit his support for federal legislation designed to expand the coverage of the current federal law. In addition, the State of Maryland should evaluate a companion savings program for dormitory costs built upon the use of tax exempt bonds.

Conclusion

The Task Force recommends the creation of a Maryland prepaid tuition program for the following reasons:

- it is essential for Maryland's future labor force to have advanced education - this program will help form a benefit program built on individual savings;
- it would provide definite benefits to Maryland residents and respond to the issue of college affordability;
- it would provide a clear federal and state tax advantage over regular savings accounts;

- it would encourage more families to save in advance for future college costs with modest payments;
- it would reduce the need for students and families to rely on borrowing to finance a college education;
- it would not compete with those families with higher incomes who choose to manage their own funds;
- it would not include a full faith and credit guarantee of the State of Maryland;
- it will assist the Maryland public institutions and, to a lesser extent, private higher education system;
- it would be a self-supporting program; and
- it will not compete with traditional financial aid programs.

The Task Force's intent is to recommend a program that is flexible and minimizes the financial risks to the State. A limited guarantee should be offered, but it should be based solely on the program's assets. The Task Force recommends that the legislation creating the program include language that no act or undertaking of the program, including the advanced payment contract shall be deemed to constitute a debt of the State of Maryland or a pledge of the full faith and credit of the State, but shall be payable solely from the assets of the program in the special fund.

To make Maryland's program successful, the Task Force recommends that the program be built on a tuition coverage model; not just a savings vehicle. The Task Force believes families prefer the relative certainty of tuition coverage rather than the maximization of investment earnings. It is the recommendation of the Task Force that the contract for the Maryland prepaid tuition program be structured as advanced payment contracts.

The program should be administered by a separate board. The minimum amount of tuition benefits that can be purchased should be one academic year. Benefits may be used at two-year or four-year private and public institutions or a combination thereof. **Purchase of a contract would not guarantee admission to an institution of higher education.**

The program should have a limited annual open enrollment period during which a parent, other relative, a non-relative, business or other organization would be able to purchase contracts on behalf of a designated beneficiary. A beneficiary should not have completed the ninth grade at the time a contract is purchased because actuarial projections performed in other states have demonstrated this to be the upper enrollment limit.

Participants would be able to use benefits out-of-state, however, would only receive a fixed percentage of the average weighted tuition of the Maryland two-year or four-year public institutions to be determined by the board of the future value of the contract. Contract holders should be able to convert from one contract payment plan to another. For example, a participant should be able to convert from a two year plan to a four year plan. A contract would be transferable to any direct relative of the beneficiary for which the contract was originally purchased subject to the new federal law. Once a contract is purchased, it must be held for a minimum of three years before benefits can be redeemed.

To make the program affordable to as many state residents as possible, several payment options should be offered including monthly, quarterly, lump-sum as well as through a series of installments spread over a number of years. Private commercial banks can be offered the opportunity to be a Maryland Higher Education Tuition Bank to collect payments. For this opportunity, the banks would pay a fee to the program to offset marketing expenses. Contributors should be given a limited period to change payment schedules, subject to sound actuarial practices. Payroll deduction, as well as automatic transfers from savings or checking accounts should be provided.

The price of a contract would be based on the age of the beneficiary when a contract is purchased as well as the weighted (by enrollment) average tuition and mandatory fees at Maryland's four year public institutions, or two-year community colleges. Since costs at private institutions are generally greater than at public institutions, the difference in costs will have to be made up by the beneficiary or contributor.

To manage the assets and liabilities of the program, the Task Force recommends that the program provide an annual report to the Governor, the General Assembly, and the public institutional governing boards on the status of the fund and that each fairly consider their appropriation and tuition policy to ensure the contract coverage.

In the event of the death or disability of a beneficiary or if a beneficiary receives a scholarship, the contributor could either transfer the contract to another beneficiary or request a special refund. The refund would include the original principal and some or all of the capital gains or interest accrued under the contract. In the case of a refund due to hardship, the contributor would receive a refund of only the contributions made, less administrative charges. Should a beneficiary decide not to attend college, the beneficiary may postpone using the benefits for up to ten years or transfer the contract to a sibling.

Given the high cost of room and board, the Task Force recommends to the Governor that he commit his support for federal legislation designed to expand the coverage of the current federal law. In addition, the State of Maryland should evaluate a companion savings program for dormitory costs built upon the use of tax exempt bonds.

Although the Task Force supports the creation of a prepaid tuition program, there are risks involved that require careful monitoring. The actuarial assumptions as well as the investment strategy used in the program must be regularly audited to ensure that they are sound. In addition, in the event of substantial increases in tuition rates, the program must have the ability to re-price contracts for all participants. The public higher education institutions are beneficiaries of this program and must annually review tuition increases relative to the program's assets and actuarial assumptions. Close communication by these institutions with the board must be maintained.

Summary of Recommendations	
Agency to administer	New 7 member board; off-budget
Guarantee	By Prepaid Tuition Program only
Anticipated implementation date	January 1998
Contract provides	2 years at a Md. community college, 2 years at a community college plus 2 years at a Md. 4-year college, or 4 years at a Md. 4-year public college
Legislation should authorize	Prepaid Tuition Program
Residency requirement	Beneficiary must be Maryland resident at time of enrollment; contributor may be non-resident
Anticipated number of participants	9,000 - 10,000 per year
Participating institutions	2 year - 4 year - Maryland Public and Private institutions
Benefits transferable to other states	Yes, at a discounted rate
Minimum purchase	1 year of tuition
Pricing varies with age	Yes (may be adjusted annually and to actuarial need)
Refund available	Yes, but with a penalty under certain circumstances
Beneficiary transfer option	Yes, to another family member
Funds subject to state tax	No, during accumulation; yes, at withdrawal
Funds subject to federal tax	No, during accumulation; yes, at withdrawal
State funding	1st year start-up costs; self-supporting through fees
Impact on financial aid programs	None
Enrollment	Limited annual period
Dormitory	Not permitted by federal law; recommend further action under separate program by the new board
Fund investments	Subject to similar guidelines as the State Pension Board

APPENDICES

Summary of Recommendations	
Agency to administer	New 7 member board, off-budget
Guarantee	By Prepaid Tuition Program only
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Impact on financial aid programs	None
Enrollment	Limited annual period
Dormitory	Not permitted by federal law; recommend further action under separate program by the new board
Fund investments	Subject to similar guidelines as the State Pension Board

PREPAID TUITION TASK FORCE
MEETING SCHEDULE

September 17, 1996	11:00 AM	Organizational Meeting Howard Community College
October 3, 1996	4:00 PM	Working Session Maryland Higher Education Commission 4th Floor Conference Room
October 15, 1996	4:00 PM	Public Hearing - Baltimore University of Maryland Baltimore County
October 24, 1996	2:30 PM	Working Session Maryland Higher Education Commission 4th Floor Conference Room
October 29, 1996	9:00 AM	Working Session Maryland Higher Education Commission 4th Floor Conference Room
November 12, 1996	4:00 PM	Public Hearing - Montgomery County Montgomery College - Rockville Campus
November 18, 1996	4:00 PM	Working Session Maryland Higher Education Commission 4th Floor Conference Room
November 25, 1996	9:00 AM	Working Session Maryland Higher Education Commission 4th Floor Conference Room
December 13, 1996	2:00 PM	Working Session Maryland Higher Education Commission 4th Floor Conference Room

ROLES AND AUTHORITY TO SET TUITION

Direct Role or Authority	*Public Research Universities*	*State Colleges*	*Community Colleges*
State Legislature	Florida Illinois North Dakota New York Ohio Oklahoma Oregon Texas Virginia Washington Wisconsin	California Florida Illinois North Dakota New York Ohio Oklahoma Oregon Texas Virginia Washington Wisconsin	California Florida Kansas North Dakota New York North Carolina Ohio Oklahoma Oregon Virginia Washington Wisconsin
State Coordinating Board	Arkansas Connecticut Illinois Kentucky Massachusetts New Jersey Oklahoma Tennessee Washington	Arkansas Connecticut Illinois Kentucky Massachusetts New Jersey Oklahoma Tennessee Washington	Arizona Arkansas Connecticut Kentucky Massachusetts New Jersey Oklahoma Tennessee Washington Wyoming
Statewide Governing Boards	Alaska Arizona California Florida Georgia Hawaii Iowa Idaho Kansas Mississippi Montana North Carolina North Dakota Nevada Oregon Rhode Island Tennessee Utah	Alaska California Florida Georgia Hawaii Iowa Idaho Kansas Montana North Carolina North Dakota Nevada Oregon Rhode Island South Dakota Tennessee Utah	Alaska California Georgia Hawaii Mississippi Montana North Dakota Nevada Rhode Island Tennessee Utah

Direct Role or Authority	*Public Research Universities*	*State Colleges*	*Community Colleges*
Multi-Institution Governing Board	Alabama Arkansas Colorado Illinois Indiana Louisiana Massachusetts Maryland Maine Minnesota Missouri Nebraska New Hampshire New York Oklahoma Tennessee Wisconsin West Virginia	Alabama Arkansas Colorado Connecticut Illinois Indiana Louisiana Maryland Maine Minnesota Nebraska New York Oklahoma Pennsylvania Tennessee Vermont Wisconsin West Virginia	Connecticut Louisiana Maine Minnesota New York Tennessee Virginia Vermont Wisconsin West Virginia
Institution or Local District Board	Alabama Connecticut Delaware Michigan New Jersey New Mexico Ohio South Carolina Virginia Vermont Washington Wyoming	Alabama Arkansas Colorado Delaware Indiana Maryland Michigan Missouri Nebraska New Jersey New Mexico Ohio Oklahoma South Carolina Virginia Washington	Arizona Arkansas Delaware Florida Iowa Idaho Illinois Indiana Kansas Maryland Michigan Missouri Mississippi Nebraska New Jersey New Mexico New York Ohio Oklahoma Oregon Pennsylvania South Carolina Texas Washington

Source: *1992 Survey on Tuition Policies*
State Higher Education Executive Officers

Deloitte &
Touche LLP

ABC Consulting
400 One Financial Plaza
120 South Sixth Street
Minneapolis, MN 55402--1844

Telephone: (612) 397-4000
Facsimile: (612) 397-4550

November 27, 1996

Ms. Paula Fitzwater
Maryland Higher Education Commission
16 Frances Street
Annapolis, MD 21401

SUBJECT: Contract Price Illustrations & Expected Particippation

Dear Paula:

Enclosed are revised contract price illustrations corresponding to tthe ones we sent to you on Monday. The revisions are cosmetic in nature and none of the amounts within the tables have been changed. As you requested, we have eliminated the lines forr grades 10, 11 and 12. These contract prices are only for illustration purposes and shouldl not be used directly for contract pricing. They are intended only to give task force membeers a rough idea of possible prices under one type of pricing approach.

The illustrations are based on Florida's 1997 contract prices with ε adjustment for the difference in weighted average tuition between Maryland and Florida institututions. This is only one of many possible approaches. For instance, the Pennsylvania prograam varies the price by institution and uses a flat "today's dollars" approach which ignorees the beneficiaries' age.

There are many considerations that can have a significant impact con contract pricing. Here are a few key ones:

- Interest assumptions - Florida assumed 7.5% per year until maatriculation; 8% thereafter

- Tuition increases - Florida assumed University 7.5% per year;; Community Colleges 5%

- Anti-selection - Many programs include a factor to account for expected bias to choose more expensive schools
- Full faith & credit - Systems without full faith and credit may charge more to add a margin for possible future adverse experience

Florida assumes a 7.5% tuition increase rate for four year institutions and 5% for community colleges. Maryland may want to study whether the resulting 2.5% spread is appropriate for its situation.

Many programs do not allow purchases for high school students because of the strong tendency for anti-selection, so as we discussed, I have eliminated the prices for 10, 11 and 12 grade purchases.

Weighted Average Tuition

Given the tuition and enrollment information you supplied, we estimated the weighted average tuition for Maryland institutions. As you requested, we eliminated the University of Maryland Baltimore City from the analysis. Also, as we discussed, we estimated the fiscal 1997 tuition rates for community colleges by assuming a continuation of the prior year's increases at a rate of 6.3%. In addition, we estimated the fiscal 1997 tuition rate at UM University College by increasing the fiscal 1996 rate by 7.2% (the average increase in the UM system for 1996 to 1997). The corresponding rates for Florida are also shown below:

	Weighted Average Tuition	
	Maryland	*Florida*
Four Year Institutions	$3,969.00	$1,426.20
Community Colleges	$2,118.50	$1,041.90

We assumed no significant changes in relative enrollments between the institutions. However, if the 2.5% spread in tuition increases between community colleges and four year institutions is maintained over a long time period, the relative enrollments may be significantly impacted.

Expected Participation Rates

Our rough estimate of participation rates is 9,000 to 10,000 contracts per year. This estimate is based on an estimated target population of 1,130,000. The estimated participation rate is 0.85% of the target population (children under age 17 not in poverty). This rate was estimated using the GAO's participation and affordability correlation analysis. Maryland's affordability factor (average tuition divided by median family income) is between that of Michigan and Pennsylvania. Our estimate is between Michigan's participation rate of 0.86% and Pennsylvania's rate of 0.39%.

Deloitte & Touche LLP

As with any contractual arrangement of this type, a thorough actuaarial analysis is recommended before implementing a set of contract prices. If yoou have any questions please call me at (612) 397 - 4023.

Sincerely,

Michael E. Pennell

Michael E. Pennell, EA, ASA, MAAA
Manager

cc Dale Lamps
Jay Lingo
John Stokesbury

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Deloitte & Touche LLP

MARYLAND PREPAID TUITION TASK FORCE

CONTRACT PRICES - FOR ILLUSTRATION ONLY

State University - Four Years

Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 Month) Installment Plan
Grade 9	2000	$16,700.27	$441.34	
Grade 8	2001	16,659.47	356.66	$356.66
Grade 7	2002	16,618.76	302.47	355.77
Grade 6	2003	16,578.18	264.88	354.90
Grade 5	2004	16,537.66	237.35	354.04
Grade 4	2005	16,497.28	216.34	353.18
Grade 3	2006	16,456.96	199.81	352.32
Grade 2	2007	16,416.77	186.51	351.45
Grade 1	2008	16,376.67	175.57	350.59
Grade K	2009	16,336.65	166.42	349.73
Age 4	2010	16,296.75	158.71	348.89
Age 3	2011	16,256.92	152.09	348.03
Age 2	2012	16,217.21	146.38	347.17
Age 1	2013	16,177.58	141.40	346.33
Infant	2014	16,138.06	137.03	345.47
Newborn	2015	16,098.66	133.19	344.63

MARYLAND PREPAID TUITION TASK FORCE

CONTRACT PRICES - FOR ILLUSTRATION ONLY

Community College - Two Years

Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 Month) Installment Plan
Grade 9	2000	$3,928.32	$103.82	
Grade 8	2001	3,827.59	81.94	$81.94
Grade 7	2002	3,729.44	67.87	79.85
Grade 6	2003	3,633.81	58.07	77.79
Grade 5	2004	3,540.63	50.81	75.80
Grade 4	2005	3,449.84	45.24	73.85
Grade 3	2006	3,361.39	40.81	71.96
Grade 2	2007	3,275.20	37.21	70.11
Grade 1	2008	3,191.20	34.22	68.32
Grade K	2009	3,109.38	31.68	66.57
Age 4	2010	3,029.64	29.50	64.86
Age 3	2011	2,951.97	27.61	63.19
Age 2	2012	2,876.27	25.97	61.57
Age 1	2013	2,802.52	24.50	60.00
Infant	2014	2,730.66	23.18	58.46
Newborn	2015	2,660.63	22.02	56.95

Deloitte & Touche LLP

MARYLAND PREPAID TUITION TASK FORCE

CONTRACT PRICES - FOR ILLUSTRATION ONLY

Two Years Community College
Plus Two Years State University

Current Grade/Age	Projected Enrollment Year	Single Payment Plan	Monthly Payment Plan	5-Year (55 Month) Installment Plan
Grade 9	2000	$12,111.16	$320.08	
Grade 8	2001	11,971.01	256.27	$256.27
Grade 7	2002	11,834.07	215.37	253.33
Grade 6	2003	11,700.19	186.94	250.47
Grade 5	2004	11,569.36	166.04	247.69
Grade 4	2005	11,441.45	150.04	244.95
Grade 3	2006	11,316.43	137.41	242.26
Grade 2	2007	11,194.19	127.17	239.65
Grade 1	2008	11,074.66	118.71	237.08
Grade K	2009	10,957.80	111.63	234.59
Age 4	2010	10,843.52	105.59	232.15
Age 3	2011	10,731.77	100.41	229.75
Age 2	2012	10,622.48	95.87	227.41
Age 1	2013	10,515.60	91.93	225.12
Infant	2014	10,411.05	88.40	222.87
Newborn	2015	10,308.76	85.29	220.68

Virginia to Give Parents Option of Prepaying College Tuition

By Victoria Benning
Washington Post Staff Writer
Saturday, October 26 1996; Page A01
The Washington Post

Virginia officials have unveiled a plan allowing parents in the state to pay their children's college tuition years in advance, relieving some of the burden of rising college costs.

The prepaid tuition contracts will go on sale for 90 days beginning Dec. 2, with similar sign-up periods in future years, officials said.

Parents who buy a contract will make lump-sum or monthly payments into a tax-deferred account set up in their child's name. In return, they will be guaranteed that their investment will cover the full cost of tuition and fees at any public college or university in Virginia when their child reaches college age.

Virginia is joining 12 other states that have adopted college prepayment plans to address concerns about spiraling costs. An additional 20 states are considering the idea.

Maryland Gov. Parris N. Glendening (D) has said he intends to submit a tuition prepayment plan to the legislature when it convenes in January.

The Virginia program was approved by the state legislature in 1994, but it took more than two years for a state agency to complete the plan, which was announced this week.

The tuition contracts, available for ninth-graders and younger children, are not a guarantee of admission to any college. But the guarantee that the contract will cover the cost of tuition and fees at any two- or four-year public college in the state will remove parents' fears that they are not saving enough for their child's college education, officials said.

"This will relieve what is a major concern for a lot of parents," said Michael Mullen, deputy director of the Virginia State Council of Higher Education. "This is clearly encouraging parents and students to plan for college in advance. If they've got the financial side taken care of, they'll be encouraged to take care of the academic side as well."

For parents who make a single payment, the cost of a prepaid tuition contract at a four-year college ranges from $14,660 for an infant to $16,699 for a ninth-grader. For those who choose to make monthly payments from now until a child enrolls in college, the cost ranges from $128 a month for an infant to $482 a month for a ninth-grader. The fees are lower for contracts covering tuition at two-year community colleges.

A student who decides to attend a private college in Virginia or a public or private college outside the state still can make use of a prepaid tuition contract. But the student will have to pay any difference between that school's tuition and the highest tuition charged at a Virginia state college.

Parents can cancel a contract at any time and receive a refund of what they have paid into the program, although they will not receive interest.

With tuition and fees at Virginia's four-year public colleges now averaging about $16,000, the parents of an infant are getting a below-market price if they buy a tuition contract with a single payment of $14,660, state officials said.

One way to calculate the return on that investment is to consider how much tuition will cost in 18 years -- about $79,100, according to the projections of the Virginia Higher Education Tuition Trust Fund, which developed the plan.

Parents would receive about the same return by investing in a stock mutual fund that earned 10 percent a year but would not receive the tax advantages of the tuition plan. In Virginia's plan, taxes are deferred until a tuition voucher is redeemed and are based on the student's tax bracket, not the parents'.

Financial planners said programs such as Virginia's make sense for parents who don't have the time or savvy to manage their own investments.

"If a parent can lock themselves into a payment plan of this nature, it appears to me that it's probably a pretty good deal," said Arthur Einhorn, president of the Gaithersburg-based College Financial Aid Services.

But several financial planners said knowledgeable investors might do better on their own.

State officials said the program does not pretend to be an investment plan. "It's not an investment plan, it's an insurance program," said Diana F. Cantor, the trust fund's executive director. "It's an affordable way for families to realize their college dreams. It's a way of getting rid of some of the worry. It's not for everyone."

For more information about the program, parents can call a toll-free number, 1-888-567-0540.

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PREPAYINGG FOR COLLEGE

GRADE OR AGE 9/1/96	4-YEAR COLLEGE E Single Payment	Montnthly Paymvments	2-YEAR COMMUNITY COLLEGE Single Payment	Monthly Payments
9th Grade	$16,699	$48182	$2,910	$84
8th Grade	$16,544	$37179	$2,884	$66
7th Grade	$16,391	$31115	$2,857	$55
6th Grade	$16,239	$27272	$2,830	$47
5th Grade	$16,089	$24241	$2,804	$42
4th Grade	$15,940	$21217	$2,778	$38
3rd Grade	$15,792	$19198	$2,752	$35
2nd Grade	$15,646	$18183	$2,727	$32
1st Grade	$15,501	$17171	$2,702	$30
Age 5	$15,357	$16161	$2,677	$28
Age 4	$15,215	$15152	$2,652	$27
Age 3	$15,074	$14145	$2,627	$26
Age 2	$14,935	$13138	$2,603	$25
Age 1	$14,797	$13133	$2,579	$24
Infant	$14,660	$12128	$2,555	$23

SOURCE: Virginia Higher Education Tuition)n Trust Fund are lower for contracts covering tuition at two-year community colleges.

A student who decides to attend a private college in Virginia or a public or private college outside the state still can make use of a prepaid tuition contract. But the student will have to pay any difference between that school's [illegible] tuition charged at a Virginia state college.

[illegible] contract at any time and receive a refund of what they [illegible] to the [illegible], although they will not receive interest.

With [illegible] at Virginia's four-year public colleges now [illegible] $4,000, the parents of an infant are getting a [illegible] contract with a single payment of [illegible], state officials [illegible].

One way to calculate the return on that investment is to consider how much tuition will cost in 18 years — about $79,100, according to the projections of the [illegible] Virginia [illegible] Education Tuition Trust Fund, which [illegible].

Parents [illegible] return by investing in a stock mutual fund [illegible] year but would not receive the tax advantages of the tuition plan. In Virginia's plan, taxes are deferred until a student withdraws [illegible] and are based on the student's tax bracket, not the parents'.

Financial planners said programs such as Virginia's make sense for parents who don't have the time or savvy to manage their own investments.

"It's hard for me to [illegible] a payment plan of this nature, it appears to me that it's probably a pretty good deal," said Arthur Hinkorn, president of the Gaithersburg-based College Financial Aid Services.

But several financial planners said knowledgeable investors might do better on their own.

State officials said the program does not pretend to be an investment plan. "It's not an investment plan; it's an insurance program," said Diane F. Cantor, the trust fund's executive director. "It's an affordable way for families to realize their college dreams. It's a way of getting rid of some of the worry. It's not for everyone."

For more information about the program, parents can call a toll-free number, 1-888-567-0540.

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Summary of Plans in Other States

Michigan

In 1986, Michigan became the first state to establish a prepaid tuition program, named the Michigan Education Trust (MET). The program

1. Allowed parents to pay for the cost of tuition and fees at a state college before a child reached college age; and

2. Guaranteed to pay the cost of tuition and fees, no matter how high they may have risen in the meantime, when the child eventually enrolled.

During the fall of 1988, Michigan began to sell contracts that guaranteed, for a fixed price, the payment of tuition and fees at the state's public universities. The Michigan program attracted attention nationwide.

The Michigan program, however, encountered problems with the Internal Revenue Service (IRS) concerning its tax status. When the program was set up, state officials filed a request for a private letter ruling from the IRS regarding the taxability of earnings of the program and the tax liability of purchasers and beneficiaries of the Michigan contracts. In March 1988, the IRS ruled that

1. Purchasers may be liable for the federal gift tax;

2. Beneficiaries would be liable for federal income taxes on the increased value of their benefits at the time of redemption; and

3. MET would have to pay taxes on its investment earnings.

In 1991, Michigan suspended the sales of contracts and requested a refund of the $15.8 million in taxes paid to the IRS. When the IRS denied the request, MET and the State of Michigan sued the United States government, arguing that the program's earnings should be exempt from federal taxes because it was an integral part of the state. MET lost in the U.S. District Court in July 1992 but won its appeal in the Sixth Circuit Court of Appeals in November 1994. Although the IRS disagreed with the Sixth Circuit Court's ruling, the agency decided not to appeal the case to the Supreme Court. MET resumed operating its prepaid tuition program in late 1995 without the guarantee to cover the cost of tuition and fees provided under the original program. Also, the price of contracts was substantially increased, and the price now does not vary with the beneficiary's age.

Michigan's tuition prepayment program served as a general model for those adopted by Alabama, Florida, and Wyoming.

Alabama

In May 1989, legislation was passed to create the Prepaid Affordable College Tuition program (PACT) in Alabama. The program, which was implemented in March 1990, is administered by the Alabama State Treasurer. Funds are maintained in a State Trust Fund which is professionally managed. The staff of seven who administer the program are located in the Treasurer's office. The state does not guarantee that the cost of tuition and fees will be paid in full when the beneficiary enrolls in college.

The program offers three payment options: lump sum, monthly payments for five years, or monthly payments until high school graduation. The contract price is based on the age or grade of the child. The contract provides payment for in-state public tuition and mandatory fees of 135 semester hours or the receipt of a bachelor's degree, whichever comes first. The beneficiary must be in the ninth grade or below and must be a resident of Alabama or the minor child of a non-custodial parent who is an Alabama resident.

Florida

Legislation in 1987 created the Florida Prepaid College Program. To date, over 375,500 contracts have been purchased, making the Florida Prepaid College Program the largest with a market value of over $1.2 billion. The program is administered by the Florida Prepaid Postsecondary Education Expense Board, a state agency affiliated with the State Board of Administration. The program is backed by the state of Florida.

The program allows purchasers to prepay tuition and dormitory fees at any of Florida's 9 state universities and 28 community colleges. The program offers three tuition plans: a four-year university plan (120 credit hours); a two-year community college plan (64 credit hours); or a combined 2+2 plan (64 community college and 60 university credit hours). One to five years of dormitory expenses may be purchased in conjunction with a four-year university contract. However, due to the new federal ruling Florida will most likely discontinue the dormitory option.

Three payment plans are available: a one-time lump sum, a monthly payment plan payable over five years, and a monthly payment plan payable through the beneficiary's projected enrollment year.

A purchaser need not be a relative of the beneficiary; even corporations, businesses, and civic and fraternal organizations may purchase a contract. Florida actively markets to grandparents.

Wyoming

The Advanced Payment of Higher Education Costs Program, administered by the University of Wyoming, was designed to sell contracts for undergraduate education at the University of Wyoming or any community college in the state. The program was established in 1987, and contracts first went on sale that summer. The program was administered under the auspices of the University of Wyoming Board of Trustees.

A Wyoming Prepaid College Contract allowed people to prepay the costs of tuition and fees only, or tuition plus fees, room, and board. Purchasers could buy contracts for 2 years at a community college and/or 1 to 4 years at the University. The program offered contracts for both residents and nonresidents. Contract purchasers did not have to be state residents and they could purchase multiple contracts.

However, the program was canceled in 1995 due to a lack of participation. For the two previous years, the program had experienced negative contract growth in that more people were withdrawing than were buying new contracts.

Ohio

The Ohio program has served as a model for Alaska and Pennsylvania. In June 1989, the Ohio General Assembly created the Tuition Trust. In 1994, the Ohio constitution was amended to place the full faith and credit of the state behind the Prepaid Tuition Program. Unlike the original Michigan model, the prices of these contracts do not vary with the beneficiary's age. Purchasers open an account for a beneficiary with an initial payment and can later purchase any amount of benefits they require. Typically, the cumulative maximum benefit is four years. The purchaser buys tuition units, which represent 1 percent of the average tuition being charged at Ohio public universities.

The 1995-96 cost of prepaid tuition for one year at a public college was $3,950 and for four years it was $15,800. Each tuition unit costs $39.50 and 400 units are needed for an average-priced Ohio public four-year college education. Tuition units can be used to cover tuition costs at any accredited two- or four-year school, college, or university. Pricing is based on the weighted average tuition of the 13 Ohio public universities.

As of May 1996, 47,500 children from middle income families in Ohio participate in the program. The Prepaid Tuition Program has $193 million in assets. The agency employs 21 full- and part-time employees to administer and promote the program.

Alaska

The Alaska Advance College Tuition program (ACT) was established for the University of Alaska (Alaska's only state university) by the state legislature in 1991. ACT credits (units of education equal to a student credit hour charge at the university) are redeemable any time after two years. The university guarantees that the credits can be redeemed for education at the University of Alaska regardless of the amount paid for the credits and the cost of tuition when redeemed.

Pennsylvania

The Pennsylvania Tuition Account Program (TAP), established in 1992, is directed by the State Treasurer. TAP tuition credits can be purchased in any amount. A TAP tuition credit is equal to one-twenty-fourth of the annual tuition for undergraduate students. TAP credits can be used at any accredited post-secondary school in the nation. However, the tuition credits may not be guaranteed to cover the student's tuition.

Massachusetts

Massachusetts has implemented a prepaid tuition plan different from all the others. The program sells "Tuition Certificates" redeemable toward the cost of tuition and fees at participating public or private college in the state. The percentage of tuition is fixed on the date the certificate is purchased. For example, a $1,000 Tuition Certificate may represent 7 percent of a year's tuition at college X, 15 percent at college Y, and 25 percent at college Z.

Over 60 private and public Massachusetts colleges and universities participate in the program. Payments on the Tuition Certificates are backed by the full faith and credit of the Commonwealth of Massachusetts. In addition, participating colleges and universities have agreed to accept the Tuition Certificates at maturity as payment for a fixed percentage of tuition regardless of any actual increase in their future tuition. If the Tuition Certificates are not used for tuition at a participating college or university, interest is calculated for the period the certificates have been held at a rate equal to the compounded annual increase in the Consumer Price Index.

Texas

The Texas Tomorrow Fund began accepting enrollments in January 1996 and sold 40,000 contracts in the first enrollment period. Under the Texas Tomorrow Fund, parents, grandparents, friends, businesses, or any other person may buy a contract with the state to prepay the full cost of college tuition and fees at Texas public colleges and universities or the estimated average private tuition and required fees for students enrolled in the program.

Other States

Several states will implement prepaid programs in 1996 and 1997. Legislation establishing the Mississippi Prepaid Affordable College Tuition Plan (MPACT) was effective July 1, 1996. MPACT will offer prepaid tuition plans backed by the full faith and credit of the state of Mississippi. The state is lending a half million dollars to MPACT for start-up costs from the unclaimed property fund. This loan will be repaid in three years.

In May 1996, Tennessee's General Assembly created the Baccalaureate Education System Trust (BEST), which will authorize the purchase of tuition units. The units can be used to pay the tuition at any accredited two- or four-year college or university.

Virginia's new higher education trust begins offering prepaid tuition contracts on December 2, 1996. Under Virginia's plan, tuition contracts, available for ninth-graders and younger children, will cover the cost of tuition and fees at any two- or four-year public college in the state.

Reasons Other States Did Not Establish Prepaid Tuition Programs

In general, states that elected not to establish prepaid programs chose not to do so because of the uncertainty over the federal taxability issue. In several states, (West Virginia, Indiana, and Oklahoma) the legislation authorizing a prepaid tuition program required favorable IRS rulings prior to implementation.

In Indiana, for example, the program was structured to be a replica of the Michigan program. Because of the problems over the federal taxability issue, Indiana decided to indefinitely postpone implementation of the prepaid program and establish a college savings plan instead. Additionally, there was concern over whether high enough investment returns could be achieved given the statutory restrictions on the types of investments the program would have been able to invest in. (By Indiana law, the program could only have invested in fixed income securities).

In Maine, the legality of its prepaid plan was cast into doubt by an opinion issued by the state Attorney General's office. The authorizing legislation went into effect in June 1987, but was declared unconstitutional in July 1988 on the grounds it violated the state's constitutional limit of $2 million in unbonded indebtedness.

In California, the governor vetoed a bill to establish a prepaid tuition program because of his concern over the federal tax issues. In addition, he indicated a preference for a program run by the private sector.

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In California, the governor vetoed a bill to establish a prepaid tuition program because of his concern over the federal tax issues. In addition, he indicated a preference for a program similar to the college savings bonds.

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A BILL ENTITLED

AN ACT concerning

Maryland Higher Education - Maryland Prepaid Tuition Program

FOR the purpose of establishing a method to provide for the prepayment of tuition at the public institutions of higher education in the State; establishing the Maryland Prepaid Tuition Program; clarifying the purpose of the Program and the types of funds of which the Program shall be composed; establishing a Maryland Prepaid Tuition Program Board; specifying the membership, appointment, terms, and removal of members of the Board; establishing the powers and duties of the Board; establishing administrative rules for the Board; authorizing the Board to adopt regulations to carry out its responsibilities; requiring the Board to adopt a certain investment plan for the Program; exempting the Program from certain laws; requiring the Board to establish a program of prepaid tuition contracts for tuition at public institutions of higher education in the State; specifying certain requirements concerning prepaid tuition contracts; requiring the Board to provide for certain changes in circumstances of beneficiaries and purchasers of prepaid tuition contracts; prohibiting any legal attachment of contract benefits or assets of the Program; authorizing certain public agencies to provide for payroll deductions for employees to purchase prepaid tuition contracts; requiring an annual audit of the Program; requiring the Board to report to the Governor and General Assembly annually concerning the audit and certain matters concerning the Program; establishing provisions for the discontinuance of the program; prohibiting inspection of certain records except in certain circumstances; requiring a certain appropriation for a certain fiscal year; establishing the terms of the initial members of the Board; requiring the Board to solicit certain an opinion before entering into a certain contract; and generally relating to establishing a method to provide for the prepayment of tuition at the public institutions of higher education in the State.

BY repealing and reenacting, with amendments,
Article - Education
Section 11-105(h)(1)
Annotated Code of Maryland
(1992 Replacement Volume and 1996 Supplement)

BY adding to

Article - Education
Section 18-2201 through 18-2214, inclusive, to be under the new subtitle "Subtitle 22. Maryland Prepaid Tuition Program"
Annotated Code of Maryland
(1992 Replacement Volume and 1996 Supplement)

BY adding to

Article - State Government
Section 10-616(n)
Annotated Code of Maryland
(1995 Replacement Volume and 1996 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Education

11-105.

(h) (1) On or before a date set by the Commission, each of the following governing boards and agencies shall submit to the Commission its annual operating budget requests and proposals for capital projects, by constituent institutions for the next fiscal year:

(i) The Board of Regents of the University of Maryland System.

(ii) The Board of Regents of Morgan State University;

(iii) The Board of Trustees of St. Mary's College of Maryland;

(iv) The Maryland Higher Education Loan Corporation;

(v) The State Advisory Council for Title I of the Higher Education Act of 1965; [and]

(vi) The Board of Trustees of Baltimore City Community College; AND

(vii) THE BOARD OF THE MARYLAND PREPAID TUITION PROGRAM.

SUBTITLE 22. MARYLAND PREPAID TUITION PROGRAM.

18-2201.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "BOARD" MEANS THE BOARD OF THE MARYLAND PREPAID TUITION PROGRAM.

(C) "PROGRAM" MEANS THE MARYLAND PREPAID TUITION PROGRAM.

(D) "PREPAID TUITION CONTRACT" MEANS A CONTRACT BETWEEN THE BOARD AND A PURCHASER UNDER THE PROVISIONS OF THIS SUBTITLE FOR THE ADVANCE PAYMENT OF UNDERGRADUATE TUITION AT A FIXED AND GUARANTEED LEVEL BY THE PURCHASER FOR A QUALIFIED BENEFICIARY TO ATTEND A PUBLIC INSTITUTION OF HIGHER EDUCATION, AS DEFINED BY §10-201(g) OF THIS ARTICLE, IN THE STATE, IF THE QUALIFIED BENEFICIARY IS ADMITTED TO THE INSTITUTION.

(E) "PURCHASER" MEANS AN INDIVIDUAL WHO MAKES OR UNDERTAKES THE OBLIGATION TO MAKE ADVANCE PAYMENTS OF UNDERGRADUATE TUITION AS PROVIDED UNDER A PREPAID TUITION CONTRACT.

(F) "QUALIFIED BENEFICIARY" MEANS AN INDIVIDUAL WHO IS:

(1) ELIGIBLE TO APPLY ADVANCE TUITION PAYMENTS TO UNDERGRADUATE TUITION AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE UNDER THE PROVISIONS OF THIS SUBTITLE: AND

(2) A RESIDENT OF THE STATE AT THE TIME THAT THE PURCHASER ENTERS INTO A PREPAID TUITION CONTRACT.

(G) "TUITION" MEANS THE CHARGES IMPOSED BY A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE FOR ENROLLMENT AT THE INSTITUTION AND INCLUDES REGISTRATION AND ALL FEES REQUIRED AS A CONDITION OF ENROLLMENT.

18-2202.

IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ENHANCE THE ACCESSIBILITY AND AFFORDABILITY OF HIGHER EDUCATION FOR ALL CITIZENS OF THE STATE BY ESTABLISHING A METHOD TO PROVIDE FOR THE PREPAYMENT OF TUITION AT THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE.

18-2203.

(A) THERE IS A MARYLAND PREPAID TUITION PROGRAM.

(B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE:

(1) A MEANS FOR PAYMENT IN ADVANCE OF ENROLLMENT AT ANY PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE OF THE COST OF TUITION; AND

(2) AN ASSURANCE TO A BENEFICIARY WHO ENROLLS AT A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE THAT THE PREPAID TUITION CONTRACT WILL COVER THE COST OF TUITION.

(C) THE FUNDS OF THE PROGRAM CONSIST OF:

(1) PAYMENTS RECEIVED FROM PREPAID TUITION CONTRACTS MADE UNDER THE PROVISIONS OF THIS SUBTITLE;

(2) BEQUESTS, ENDOWMENTS, OR FUNDS FROM ANY OTHER AVAILABLE PRIVATE SOURCE;

(3) INTEREST AND INCOME EARNED FROM THE INVESTMENTS OF THE PROGRAM; AND

(4) FEDERAL, STATE, OR LOCAL FUNDS, OR FUNDS FROM ANY OTHER AVAILABLE PUBLIC SOURCE.

(D) MONEY REMAINING IN THE PROGRAM AT THE END OF THE FISCAL YEAR SHALL REMAIN IN THE PROGRAM AND MAY NOT REVERT TO THE GENERAL FUND.

(E) THE DEBTS AND OBLIGATIONS OF THE PROGRAM ARE NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

18-2204.

(A) THERE IS A MARYLAND PREPAID TUITION PROGRAM BOARD.

(B) THE BOARD CONSISTS OF THE FOLLOWING SEVEN MEMBERS, APPOINTED BY THE GOVERNOR:

(1) THE SECRETARY OF THE HIGHER EDUCATION COMMISSION;

(2) A REPRESENTATIVE OF THE OFFICE OF THE STATE TREASURER;

(3) A REPRESENTATIVE OF THE OFFICE OF THE STATE COMPTROLLER.

(5) FOUR MEMBERS OF THE PUBLIC WHO SHALL HAVE SIGNIFICANT EXPERIENCE IN FINANCE, ACCOUNTING, INVESTMENT MANAGEMENT, OR OTHER AREAS THAT CAN BE OF ASSISTANCE TO THE BOARD.

(C) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE CONSTITUTION.

(D) (1) EXCEPT FOR THE TERMS OF THE INITIAL MEMBERS OF THE BOARD, THE TERM OF A PUBLIC MEMBER OF THE BOARD IS 4 YEARS.

(2) THE TERMS OF THE PUBLIC MEMBERS OF THE BOARD ARE STAGGERED AS REQUIRED BY THE TERMS OF THE MEMBERS OF THE BOARD ON OCTOBER 1, 1998.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT.

(E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR MISCONDUCT.

18-2205.

(A) THE BOARD, FROM AMONG THE MEMBERS OF THE BOARD, SHALL ELECT A CHAIRMAN AND MAY ELECT ADDITIONAL OFFICERS THAT THE BOARD CONSIDERS NECESSARY.

(B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF MEETINGS.

(C) A MEMBER OF THE BOARD:

(1) MAY NOT RECEIVE COMPENSATION;

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS; AND

(3) SHALL FILE A PUBLIC DISCLOSURE OF FINANCIAL INTERESTS AS REQUIRED UNDER THE MARYLAND PUBLIC ETHICS LAW.

(D) (1) THE BOARD:

(I) SHALL APPOINT AN EXECUTIVE DIRECTOR WHO IS IN THE EXECUTIVE SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM; AND

(II) MAY EMPLOY ADDITIONAL STAFF IN ACCORDANCE WITH THE BUDGET.

(2) THE BOARD MAY RETAIN THE SERVICES OF CONSULTANTS, ADMINISTRATORS, AND OTHER PERSONNEL, AS NECESSARY, TO ADMINISTER THE PROGRAM.

(E) THE BOARD MAY ADOPT ANY REGULATIONS THAT THE BOARD CONSIDERS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

(F) IN ADDITION, THE BOARD MAY:

(1) ADOPT AN OFFICIAL SEAL;

(2) SUE AND BE SUED;

(3) EXECUTE CONTRACTS AND OTHER NECESSARY INSTRUMENTS;

(4) HOLD, BUY, AND SELL INSTRUMENTS, OBLIGATIONS, SECURITIES AND OTHER INVESTMENTS CONSISTENT WITH ITS COMPREHENSIVE INVESTMENT PLAN;

(5) ENTER INTO AGREEMENTS WITH ELIGIBLE INSTITUTIONS AND OTHER PUBLIC OR PRIVATE ENTITIES FOR THE PROMOTION, ADMINISTRATION, OR MARKETING OF THE PROGRAM;

(6) INVEST FUNDS NOT REQUIRED FOR IMMEDIATE DISBURSEMENT;

(7) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS, OR OTHER AID FROM ANY SOURCE OR PARTICIPATE IN ANY GOVERNMENT PROGRAM FOR PURPOSES CONSISTENT WITH THIS SUBTITLE;

(8) IMPOSE AND COLLECT REASONABLE ADMINISTRATIVE FEES FOR ANY TRANSACTIONS INVOLVING PREPAID TUITION CONTRACTS OR TRANSACTIONS AFFECTING THE PROGRAM;

(9) PROCURE INSURANCE AGAINST ANY LOSS OF ASSETS OF THE PROGRAM;

(10) ENDORSE INSURANCE COVERAGE WRITTEN EXCLUSIVELY FOR THE PURPOSE OF PROTECTING A PREPAID TUITION CONTRACT AND THE PURCHASER AND QUALIFIED BENEFICIARY OF THE CONTRACT;

(11) DESIGNATE TERMS UNDER WHICH MONEY MAY BE WITHDRAWN FROM THE PROGRAM;

(12) ESTABLISH ADDITIONAL PROCEDURAL AND SUBSTANTIVE REQUIREMENTS FOR PARTICIPATION IN AND THE ADMINISTRATION OR MARKETING OF THE PROGRAM;

(13) APPEAR ON THE BOARD'S OWN BEHALF BEFORE OTHER BOARDS, COMMISSIONS, OR OTHER GOVERNMENTAL AGENCIES; AND

(14) TAKE ANY OTHER ACTION THAT THE BOARD CONSIDERS APPROPRIATE TO IMPLEMENT AND ADMINISTER THE PROGRAM.

18-2206.

(A) THE BOARD SHALL ADOPT A COMPREHENSIVE INVESTMENT PLAN FOR THE ADMINISTRATION OF THE PROGRAM.

(B) THE PLAN SHALL SPECIFY THE INVESTMENT POLICIES USED BY THE BOARD IN THE ADMINISTRATION OF THE PROGRAM.

(C) ASSETS OF THE PROGRAM SHALL BE INVESTED IN ACCORDANCE WITH THE COMPREHENSIVE INVESTMENT PLAN.

(D) (1) NOTWITHSTANDING ANY LAW RESTRICTING THE DEPOSIT OR INVESTMENT OF STATE MONEY, THE BOARD MAY PLACE ASSETS OF THE PROGRAM IN SAVINGS ACCOUNTS OR MAY USE THE ASSETS TO PURCHASE FIXED OR VARIABLE LIFE INSURANCE OR ANNUITY CONTRACTS, SECURITIES, EVIDENCE OF INDEBTEDNESS, OR OTHER INVESTMENT PRODUCTS PURSUANT TO THE COMPREHENSIVE INVESTMENT PLAN.

(2) ANY INSURANCE, ANNUITY CONTRACTS, SAVINGS, OR OTHER INVESTMENT PRODUCTS PROCURED BY THE BOARD SHALL BE UNDERWRITTEN AND OFFERED IN COMPLIANCE WITH APPLICABLE FEDERAL AND STATE LAWS.

(E) THE BOARD SHALL MAKE EVERY EFFORT TO INVEST THE ASSETS OF THE PROGRAM IN A MANNER THAT EARNS, AT A MINIMUM, SUFFICIENT EARNINGS TO GENERATE THE DIFFERENCE BETWEEN THE PREPAID AMOUNT UNDER ADVANCE PAYMENT CONTRACTS AND ACTUAL COSTS AT THE TIME OF ENROLLMENT.

(F) THE PLAN SHALL PROVIDE FOR THE PROGRAM TO BE ADMINISTERED IN AN ACTUARIALLY SOUND MANNER TO ASSURE THAT THE BOARD MAY DEFRAY OBLIGATIONS OF THE PROGRAM.

(G) THE BOARD SHALL REVIEW THE COMPREHENSIVE INVESTMENT PLAN AT LEAST ANNUALLY TO ASSURE THAT THE PROGRAM REMAINS ACTUARIALLY SOUND.

(H) AFTER EACH ANNUAL REVIEW OF THE COMPREHENSIVE INVESTMENT PLAN FOR ACTUARIAL SOUNDNESS, THE BOARD MAY ADJUST THE TERMS OF SUBSEQUENT PREPAID TUITION CONTACTS TO ENSURE CONTINUED ACTUARIAL SOUNDNESS OR, IF NECESSARY, MAY ADJUST THE TERMS OF CURRENT PREPAID TUITION CONTRACTS.

(I) THE BOARD MAY CONTRACT WITH AN INVESTMENT ADVISORY OR MANAGEMENT COMPANY FOR THE INVESTMENT AND MANAGEMENT OF THE PROGRAM AS LONG AS THE PROGRAM IS ADMINISTERED IN ACCORDANCE WITH THE COMPREHENSIVE INVESTMENT PLAN.

(J) THE BOARD:

(1) SHALL PRESERVE, INVEST, AND EXPEND THE ASSETS OF THE PROGRAM SOLELY FOR THE PURPOSES OF THIS SUBTITLE; AND

(2) MAY NOT LOAN, TRANSFER, OR USE THE ASSETS FOR ANY OTHER PURPOSE OF THE STATE.

(K) THE PROGRAM IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(L) UNLESS THE BOARD PROVIDES OTHERWISE BY REGULATION, THE BOARD SHALL USE THE PROCEEDS IN THE PROGRAM IN THE FOLLOWING ORDER:

(1) TO PAY ELIGIBLE INSTITUTIONS IN ACCORDANCE WITH THE BOARD'S OBLIGATIONS UNDER ADVANCE PAYMENT CONTRACTS;

(2) TO REFUND MONEY ON THE TERMINATION OF ADVANCE PAYMENT CONTRACTS; AND

(3) TO PAY THE OPERATING EXPENSES OF THE BOARD.

18-2207.

(A) THE BOARD SHALL ESTABLISH A PROGRAM OF PREPAID TUITION CONTRACTS TO BE KNOWN AS:

(1) THE COMMUNITY COLLEGE PLAN;

(2) THE UNIVERSITY PLAN.

(B) THE COST OF A PREPAID TUITION CONTRACT SHALL BE BASED ON:

(1) THE AVERAGE CURRENT TUITION COSTS AT THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE;

(2) THE NUMBER OF YEARS EXPECTED TO ELAPSE BETWEEN THE PURCHASE OF A PREPAID TUITION CONTRACT AND THE USE OF THE BENEFITS OF THE CONTRACT; AND

(3) THE PROJECTED TUITION COSTS AT THE TIME THAT THE BENEFITS WILL BE EXERCISED.

(C) EACH PREPAID TUITION CONTRACT MADE UNDER THE PROVISIONS OF THIS SUBTITLE SHALL INCLUDE THE FOLLOWING PROVISIONS:

(1) THE AMOUNT OF EACH PAYMENT AND THE NUMBER OF PAYMENTS REQUIRED FROM A PURCHASER;

(2) THE TERMS AND CONDITIONS UNDER WHICH PURCHASERS SHALL REMIT PAYMENTS, INCLUDING THE DATES OF THE PAYMENTS;

(3) PROVISIONS FOR LATE PAYMENT CHARGES AND DEFAULTS;

(4) PENALTIES FOR EARLY WITHDRAWAL FROM THE PROGRAM;

(5) THE NAME AND DATE OF BIRTH OF THE QUALIFIED BENEFICIARY ON WHOSE BEHALF THE CONTRACT IS MADE;

(6) TERMS AND CONDITIONS FOR A SUBSTITUTION FOR THE QUALIFIED BENEFICIARY ORIGINALLY NAMED;

(7) TERMS AND CONDITIONS FOR THE TERMINATION OF THE CONTRACT;

(8) THE TIME PERIOD DURING WHICH THE QUALIFIED BENEFICIARY MAY CLAIM BENEFITS FROM THE PROGRAM;

(9) THE MAXIMUM NUMBER OF UNDERGRADUATE SEMESTER HOURS THAT ARE PREPAID UNDER THE CONTRACT;

(10) ALL OTHER RIGHTS AND OBLIGATIONS OF THE PURCHASER AND THE PROGRAM; AND

(11) ANY OTHER TERMS AND CONDITIONS THAT THE BOARD CONSIDERS NECESSARY OR APPROPRIATE.

(D) THE BOARD SHALL ALLOW THE CONVERSION OF AN ADVANCE PAYMENT CONTRACT PLAN FROM A COMMUNITY COLLEGE PLAN TO A UNIVERSITY PLAN OR FROM A UNIVERSITY PLAN TO A COMMUNITY COLLEGE PLAN.

18-2208.

(A) (1) THE BOARD SHALL ISSUE REFUNDS AS SPECIFIED IN THIS SECTION.

(2) UNLESS AUTHORIZED UNDER REGULATIONS OF THE BOARD OR UNDER SUBSECTION (B) OF THIS SECTION, A REFUND MAY NOT EXCEED THE AMOUNT PAID INTO THE PROGRAM BY THE PURCHASER.

(B) A REFUND EQUAL TO THE SAME BENEFITS AS PROVIDED BY THE CONTRACT, MINUS ANY AMOUNT PAID OUT OF THE FUNDS OF THE PROGRAM ON BEHALF OF THE QUALIFIED BENEFICIARY AND REASONABLE ADMINISTRATIVE CHARGES, SHALL BE MADE IF THE BENEFICIARY:

(1) IS AWARDED A SCHOLARSHIP THAT COVERS BENEFITS PROVIDED UNDER THE PREPAID TUITION CONTRACT; OR

(2) DIES OR SUFFERS FROM A DISABILITY WHICH PREVENTS THE BENEFICIARY FROM ATTENDING COLLEGE WITHIN THE TIME ALLOWED BY THIS SUBTITLE.

(C) (1) A DISCOUNTED REFUND OF THE CONTRIBUTIONS MADE TO THE PROGRAM, AS DETERMINED BY THE BOARD, SHALL BE MADE IF:

(I) THE BENEFICIARY DOES NOT ATTEND COLLEGE; OR

(I) BENEFITS ARE NOT EXERCISED UNDER THE CONTRACT WITHIN A TIME SPECIFIED IN THE CONTRACT; OR

(II) THE CONTRACT IS CANCELED BY THE PURCHASER.

(2) TIME THAT A QUALIFIED BENEFICIARY SPENDS IN ACTIVE DUTY AS A MEMBER OF THE UNITED STATES ARMED FORCES SHALL BE ADDED TO THE TIME PERIOD ALLOWED TO EXERCISE THE BENEFITS UNDER A PREPAID TUITION CONTRACT BEFORE A TERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

18-2209.

THE BOARD, PROGRAM, AND PREPAID TUITION CONTRACTS ISSUED UNDER THIS SUBTITLE ARE NOT SUBJECT TO THE PROVISIONS OF THE INSURANCE ARTICLE.

18-2210.

THE ASSETS AND INCOME OF THE PROGRAM ARE EXEMPT FROM STATE AND LOCAL TAXATION.

18-2211.

A PERSON MAY NOT ATTACH, EXECUTE, GARNISH, OR OTHERWISE SEIZE ANY CURRENT OR FUTURE BENEFIT UNDER A PREPAID TUITION CONTRACT OR ANY ASSET OF THE PROGRAM.

18-2212.

NOTHING IN THIS SUBTITLE NOR IN ANY PREPAID TUITION CONTRACT MAY BE CONSTRUED AS A PROMISE OR GUARANTEE BY THE BOARD OF ADMISSION TO, CONTINUED ENROLLMENT AT, OR GRADUATION FROM A PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE.

18-2213.

THE STATE AND ITS AGENCIES OR ANY LOCAL GOVERNMENT IN THE STATE MAY AGREE, BY CONTRACT OR OTHERWISE, TO REMIT PAYMENTS ON BEHALF OF AN EMPLOYEE TOWARD A PREPAID TUITION CONTRACT THROUGH PAYROLL DEDUCTIONS.

18-2214.

(A) (1) THE LEGISLATIVE AUDITOR SHALL AUDIT THE PROGRAM ANNUALLY.

(2) THE BOARD SHALL PAY FOR THE AUDIT.

(B) (1) WITHIN 90 DAYS AFTER THE CLOSE OF EACH FISCAL YEAR, THE BOARD SHALL SUBMIT TO THE GOVERNOR, AND SUBJECT TO § 2-1312 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, A REPORT INCLUDING:

(I) THE LEGISLATIVE AUDIT;

(II) A FINANCIAL ACCOUNTING OF THE PROGRAM, INCLUDING THE ANNUAL REVIEW OF THE COMPREHENSIVE INVESTMENT PLAN;

(III) THE NUMBER OF PREPAID TUITION CONTRACTS ENTERED INTO DURING THE PREVIOUS FISCAL YEAR;

(IV) EFFORTS BY THE BOARD IN MARKETING THE PROGRAM OF PREPAID TUITION CONTRACTS; AND

(V) ANY RECOMMENDATIONS OF THE BOARD CONCERNING THE OPERATION OF THE PROGRAM.

(2) THE BOARD SHALL MAKE AVAILABLE TO EACH PURCHASER A COPY OF A SUMMARY OF THE REPORT AND THE OPTION TO PURCHASE THE FULL REPORT AT A NOMINAL CHARGE.

Article - State Government

10-616.

(N) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CUSTODIAN SHALL DENY INSPECTION OF ANY RECORD DISCLOSING THE NAME OF A PURCHASER OR QUALIFIED BENEFICIARY OF A PREPAID TUITION CONTRACT UNDER TITLE 18, SUBTITLE 21 OF THE EDUCATION ARTICLE.

(2) A CUSTODIAN:

(I) SHALL PERMIT INSPECTION BY A PERSON IN INTEREST; AND

(II) MAY RELEASE INFORMATION TO AN ELIGIBLE INSTITUTION DESIGNATED IN A PREPAID TUITION CONTRACT IN ACCORDANCE WITH REGULATIONS OF THE MARYLAND PREPAID TUITION PROGRAM BOARD.

SECTION 2, AND BE IT FURTHER ENACTED, That, for Fiscal Year 1998, the Governor shall include in the State budget an appropriation for the Maryland Prepaid Tuition Program for the administrative and start-up costs for the Maryland Prepaid Tuition Program.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial public members of the Maryland Prepaid Tuition Program Board shall expire as follows:

(1) one member in 2000;

(2) one member in 2001;

(3) one member in 2002; and

(4) one member in 2003.

SECTION 4, AND BE IT FURTHER ENACTED, That, before entering a prepaid tuition contract, the Maryland Prepaid Tuition Program Board shall solicit an opinion letter from the United States Securities Exchange Commission, concerning the application of federal security laws to the Maryland Prepaid Tuition Program.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1997.

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